

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

James Robert Bates,

Plaintiff,

Civil Case No. 16-14324

v.

O'Bell Thomas Winn, *et al.*,

Sean F. Cox

United States District Court Judge

Defendants.

/

ORDER
ADOPTING 10/28/21 REPORT AND RECOMMENDATION
AND GRANTING IN PART, AND DENYING IN PART, DEFENDANTS'
SUMMARY JUDGMENT MOTION

On December 12, 2016, Plaintiff James Robert Bates filed this lawsuit under 42 U.S.C. § 1983, alleging that Defendants O'Bell Thomas Winn, Warden of the Saginaw Correctional Facility in Freeland, Michigan, and James Roth, a now-retired Inspector at the G. Robert Cotton Correctional Facility in Jackson, Michigan, failed to protect him from assault by fellow inmates in violation of his Eighth Amendment rights. The matter was referred to Magistrate Judge Anthony Patti for all pretrial proceedings.

After the close of discovery, on March 15, 2021, Defendants filed a Motion for Summary Judgment. On October 28, 2021, the magistrate judge issued a Report and Recommendation wherein he recommends that this Court grant the motion in part and deny it in part:

The Court should **GRANT IN PART** and **DENY IN PART** Defendants' motion for summary judgment. (ECF No. 63.) Roth and Winn are entitled to summary judgment on Plaintiff's Eight Amendment claims against them to the extent that the claims are based on any alleged risk of harm posed by Miller. However, Winn is not entitled to summary judgment on Plaintiff's Eighth Amendment claim against him as it relates to the substantial risk of serious harm

posed by Schneider.

(R&R at 19).

The time permitted for the parties to file objections to that Report and Recommendation has passed and no objections were filed.

Accordingly, the Court hereby ADOPTS the October 28, 2021 Report and Recommendation and ORDERS that Defendants' summary judgment motion is GRANTED IN PART AND DENIED IN PART. The Court RULES that Roth and Winn are entitled to summary judgment on Plaintiff's Eight Amendment claims against them to the extent that the claims are based on any alleged risk of harm posed by Miller. However, Winn is not entitled to summary judgment on Plaintiff's Eighth Amendment claim against him as it relates to the substantial risk of serious harm posed by Schneider.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: November 16, 2021